



CAT34-SCRO-US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:

SCROGGIE ET AL.

: GROUP ART UNIT: 2163

SERIAL NO. 08/873,974

:

CPA FILED: AUGUST 17, 1999

: EXAMINER: ROBINSON, BOYCE A.

FOR: SYSTEM AND METHOD FOR  
DISTRIBUTING INFORMATION  
THROUGH COOPERATIVE  
COMMUNICATION NETWORK SITES

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ASSISTANT COMMISSIONER FOR PATENTS

WASHINGTON, D.C. 20231

SIR:

In response to the office action dated September 23, 2002, the applicants request the appeal be reinstated pursuant to 37 CFR 1.193(b)(2)(ii) and submit the following supplemental brief.

THIRD 37 CFR 1.191/37 CFR 1.193(b)(2)(ii) SUPPLEMENTAL BRIEF

**I. Incorporation By Reference of the Original Appeal Brief Filed March 2, 2001, First Supplemental Appeal Brief Filed April 11, 2001 and the Second Supplemental Appeal Brief Filed July 10, 2001**

The applicants hereby incorporates by reference in its entirety (1) the original appeal brief filed March 2, 2001 in response to the notice of withdrawal from issue mailed February 13, 2001; (2) the first supplemental appeal brief filed April 11, 2001, in response to the examiner's first reopening of prosecution via the office action mailed March 09, 2001, and (3) the second supplemental appeal brief filed July 10, 2001 in response to the office action mailed June 09, 2001.

**II. Supplement to Section VIII of the Supplemental Appeal Brief Filed April 11, 2001**

In the outstanding office action, the examiner rejects claims 50, 51, 60, 61, 70, 71, 80, and 81 under 35 USC 102(e) as being clearly anticipated by Sloane (US Patent 5,918,211), stating that:

As per claims 50, 60, 70, 80, Sloane discloses:

a cooperative network site configured to store at least one of (i) manufacturer incentives to purchase one of a product and a services offered by a manufacturer and (ii) retailer incentives to purchase one of a product and a service offered by a manufacturer and (iii) retailer incentives to purchase one of a product and a service offered by a retailer...means for storing...(Col.7, lines 22-26); at least one of a manufacturer network site and a retailer network site coupled to said cooperative network site via said communication network... (col. 7, lines 13-17, where the retailer computer/controller of Sloane is analogous to the cooperative network site and the sender of Sloane is analogous to the manufacturer).

A consumer computer coupled to one of said manufacturer network site...(Fig.'s 4 and 5 where the consumer computer is represented as the portable bar code scanning device of Sloane);

wherein said cooperative network site is configured to transmit at least one of said manufacturer incentives and retailer incentives to said consumer over said communication network, in response to a consumer request...(Col. 7, line 65-Col. 8, line 7, Col. 8, lines 44-48).

As per claims 51,61, 71, 81, the following is inherent with Sloane because Sloane teaches that he manufacturer/retailer incentives are stored by the retailer computer/controller in Col. 7, lines 22-26. In addition, Sloane discloses that the computer/controller contains a database which stores information in Col. 8, lines 50-54:

Wherein said cooperative network site is configured to store at least one of said manufacturer incentives and retailer incentives in a database.../storing at said cooperative network site at least one of said manufacturer incentives and retailer incentives in a database coupled thereto.../means for storing....

As per claim 54, Sloane discloses:

Wherein, in response to a query from said consumer made over said communication network from said retailer network site, said cooperative network site transmits incentive data for manufacturer offers available at said retailer to said consumer...(Col. 8, lines 3-7, where the query is analogous to the product scan information by the consumer);

Said consumer transmits incentive selection data selected from said incentive data...(Col. 8, lines 41-45);

Said cooperative network site transmits incentives corresponding to said selection data to said consumer... (Col. 8, lines 46-49). [Office action page 7 line 19 to page 9 line 4.]

In the outstanding office action, the examiner rejects claims 52, 53, 55-59, 62, 72, and 82 under 35 USC 103(a) as being unpatentable over Sloane in view of Narasimhan et al. (US Patent 6,237,145), stating that:

As per claim 52, 62, 72, 82 Sloane discloses:

Said consumer transmits incentive selection data selected from said incentive data to said cooperative network.../transmitting by said consumer incentive selection data.../means for transmitting...(Col. 8, lines 34-37);

Said cooperative network site transmits incentives corresponding to said selection data to said consumer.../transmitting from said cooperative network site incentives corresponding to said selection data.../means for transmitting...(Col. 8, lines 37-39). Sloane fails to disclose the following, however, et al discloses:

Wherein, in response to a query from said consumer made over said communication network from said manufacturer network site, said cooperative network site transmits a geographically limited list of retailers honoring incentives from said manufacturer and corresponding incentive data to said consumer.../transmitting from said cooperative network site a geographically limited list of retailers.../means for transmitting...(Col. 4, lines 62-65, Col. 8, lines 4-13); It would have been obvious to one of ordinary skill in the art for geographically limited list of retailers honoring incentives and corresponding incentive data to a consumer with the motivation of giving the consumer the ability to customize and control his or her purchase preference by location. As per claim 53, neither Sloane or Narasimhan, et al disclose:

Wherein said cooperative network site transmits said geographically limited list of retailers based on a postal code...

Official notice is taken that is old and well known in the art to have a geographically list sorted by postal code. It would have been obvious to one of ordinary skill in the art to sort a geographical list by postal code in order to specifically define the closest locations in which incentive data can be sent.

As per claim 55, Sloane discloses:

Said consumer transmits incentive selection data... (Col. 8, lines 34-37);

Said cooperative network site transmits incentives corresponding to said selection data... (Col. 8, lines 37-39)

Sloane fails to teach the following, however Narasimhan et al discloses:

Wherein, in response to a query from said consumer made over said communication network from said retailer network site, and cooperative network site transmits a consumer personal page... (Col. 4, lines 41-45).

It would have been obvious to one of ordinary skill in the art to transmit a consumer personal page with the motivation of offering the consumer with a page specifically customized for his or her purchasing purposes.

As per claim 56, Sloane discloses:Said consumer transmits incentive selection data...(Col. 8, lines 34-37); Said cooperative network site transmits incentives corresponding to said selection data...(Col. 8, lines 37-39).Sloane fails

to teach the following, however Narasimhan et al discloses:  
Wherein, in response to said consumer transmitting an identification code over said communication network from said retailer network site, said cooperative network site transmits incentive data for manufacturer offer available... (Col. 6, lines 50-59). It would have been obvious to one of ordinary skill in the art to transmit an identification code over the communication network with the motivation of transmitting incentive to a specific identified consumer.

As per claim 57, Sloane discloses:

Wherein said incentive data is based on said consumer specific data comprising a shopping history of said consumer... (Col. 8, lines 50-63). As per claim 58, Sloane fails to disclose, however Narasimhan et al discloses:

Wherein said incentive data is based on said consumer specific data comprising demographic data... (Col. 9, lines 5-16).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to base incentive data on demographic data with the motivation of offering incentives to customers based on the size, destiny, and distribution of a population of consumers. As per claim 59, Sloane fails to disclose, however, Narasimhan et al discloses:

Wherein said incentive data is based on consumer specific data comprising customer profile data... (Col. 1, lines 15-20).

[Office action page 9 line 18 to page 12 line 8.]

For substantially the same reasons presented in the original appeal brief and the first and second supplemental appeal briefs, which are incorporated herein by reference, the Sloane and Narasimhan et al. combination does not suggest any claim.

### **III. The Rejections under the First Paragraph of 35 USC 112**

#### **A. Examiner's Assertion**

The examiner now alleges that the claims violate 35 USC 112, citing 11 recitations that the examiner asserts are not supported by the originally filed disclosure.

In the outstanding office action the examiner alleges that:

Claims 63-66, 73-76 and 83-86 and all claims which depend from them are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time of the application was filed, has possession of the claimed invention. Claims 63-66, 73-76 and 83-86 and all claims that depend for them will therefore not be examined. The

following is constituted as new matter: Page 3, lines 13-15, claim 63 of the amendment filed 02/16/00 which recites a process which includes the steps of "transmitting from said cooperative network site said geographically limited list of retailers based on a postal code provided by said consumer to said cooperative network site via said manufacturer network site". Page 3, lines 17-24, claim 64 of the amendment filed 2/16/00 which recited a process which includes the steps of "transmitting from said cooperative network site incentive data for manufacturer offers available at said retailer to said consumer via said retailer network site, in response to a query from said consumer made over said communication network from said retailer network site; transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer networks site". Page 4, lines 2-9, claim 65 of the amendment files 2/16/00 which recites a process which includes the steps of "transmitting from said cooperative network site a consumer personal page including incentive data for manufacturer offers available at said retailer to aid consumer via said retailer network site, in response to a query from said consumer made over said communication network from said retailer network sites; transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site incentive corresponding to said selection data to said consumer via said retailer network site". Page 4, lines 11-19, claim 66 of the amendment files 2/16/00 which recites a process which includes the steps of "transmitting from said cooperative network site incentive data for manufacturer offers available at said retailer including incentive data for manufacturer offers available at said retailer to aid consumer via said retailer network site, in response to a query from said consumer made over said communication network from said retailer network site; transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer network site". Page 6, lines 8-10, claim 73 of the amendment which recites "means for transmitting from said cooperative network site geographically limited list of retailers based on a postal code provided by said consumer to said cooperative network site via said manufacturer network site". Page 6, lines 12-19, claim 74 of the amendment which recites "means for transmitting from said cooperative network site incentive data for manufacturer offers available at said retailer to said consumer via said retailer network site, in response to a query from said consumer made over said communication network from said retailer network site; means for transmitting by said consumer incentive selection data selected from said cooperative network site via said retailer network site; and means for transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer network site". Page 6, line 21-Col.7, line 4, claim 75 of the amendment filed 2/16/00 which recites "means for transmitting from said cooperative network site a

consumer personal page including incentive data for manufacturer offers available at said retailer to aid consumer via said retailer network site, in response to a query from said consumer made over said communication network from said retailer network site; means for transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and means for transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer network site". Page 7, lines 6-14, claim 76 of the amendment filed 2/16/00 which recites "means for transmitting from said cooperative network site incentive data for manufacturer offers available at said retailer including incentive data for manufacturer offers available at said retailer to aid consumer via said retailer network site, in response to query from said consumer made over said communication network from said retailer network site; means for transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site incentives corresponding to said selection data to said consumer network retailer network site". Page 9, line 9-11, claim 83 of the amendment file 2/16/00 which recites a computer program product which performs the steps of "transmitting from said cooperative network site said geographically limited list of retailers based on a postal code provided by said consumer to said cooperative network site via said manufacturer network site". Page 9, lines 14-21, claim 84 of the amendment files 2/16/00 which recites a computer program product which performs the steps of "transmitting from said cooperative network site incentive data for manufacturer offers available at said retailer to said consumer via said retailer network site, in response to a query from said consumer made over said communication network from said retailer network site; transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer network site". Page 10, lines 1-8, claim 85 of the amendment filed 2/16/00 which recites a computer program product which performs the steps of "transmitting from said cooperative network site a consumer personal page including incentive data for manufacturer offers available at said retailer to aid consumer via said retailer network site, in response to a query from said consumer made over said communication network from said retailer network site; transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer network site". Page 10, lines 11-19, claim 86 of the amendment files 2/16/00 which recites a computer program product which performs the steps of "transmitting from said cooperative network site incentive data for manufacturers offers available at said retailer including incentive data for manufacturer offers available at said retailer to aid consumer via said retailer network site, in response to a query from said consumer made over said communication network from said retailer network site;

transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer network site". These limitations were not properly described in the application as filed. Since the applicant failed to amend the specification to make the present application a C.P. of parent application 08/622685, as agreed in the interview given 1/20/00, all claims which present additional matter are constituted as new subject matter because these new claim limitations were not satisfactorily resolved by the examiner and consequently raise doubt as to possession of the claimed invention at the time of filing. [Office action page 2 line 22 to page 7 line 5.]

#### B. Applicants' Response

In reply, the applicants submit that the 12 limitations identified by the examiner that the examiner asserts are not supported by the specification are supported by the specification. One of ordinary skill in the art would have understood that the inventors were in possession of those limitations based upon the originally filed disclosure. The following claim chart shows specifically where each of the 11 limitations is described in the originally filed disclosure, and the 37 CFR 1.132 declaration of Michael C. Scroggie filed concurrently herewith contains the same chart and Mr. Scroggie's conclusion as to these factual issues. Accordingly, these rejections are improper and should be reversed.

##### 1. First Assertion

<b>Office Action at page 2 line 22 to page 3 line 2 alleges no original disclosure of:</b>	<b>Original disclosure of the recited limitations:</b>
"transmitting from said cooperative network site	Page 9 lines 26-27; and FIG. 1 #14.
said geographically limited list of retailers	Page 3, lines 21-22; Page 9 lines 24-26; and FIG. 3 #50, #52, #54, #56.
based on a postal code provided by said consumer	Page 9 lines 20-24; and FIG. 2 #32, #34, #36. Page 10 lines 7-9; and FIG. 3 #52, #54, #56.
to said cooperative network site	Page 9 lines 24-26; and FIG. 1, #14. Page 8 lines 16-18; FIG. 4 #14, FIG. 5 #14, and FIG. 7 #124 through #136.
via said manufacturer network site"	Page 9 lines 26-27; FIG. 1 #10; and FIG. 2 #10.

2. Second Assertion

<b>Office Action at page 3 lines 2-10 alleges no original disclosure of:</b>	<b>Original disclosure of the recited limitations:</b>
“transmitting from said cooperative network site incentive data for manufacturer offers available at said retailer to said consumer via said retailer network site,	FIG. 1 #12, #14, #16; page 8 lines 18-19; page 9 lines 3-14; and page 10, lines 11-12.
in response to a query from said consumer made over said communication network from said retailer network site;	Page 3, lines 27-28; page 4, lines 1-2; page 8 lines 24-25; FIG. 1 #12, #14, FIG. 3 #50, #54, #62; page 9 lines 3-7 and lines 10-11; and page 10 lines 5-7 and lines 12-13.
transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and	Page 3 line 29; page 9 lines 12-13; FIG. 1 #12, #14; and FIG. 3 #64, #66, #68.
transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer networks site”	Page 3 lines 1-2; page 10 line 1-2; page 9 lines 13-14; FIG. 1 #12, #14; and FIG. 3 #66, #68.

3. Third Assertion

<b>Office Action at page 3 lines 11-19 alleges no original disclosure of:</b>	<b>Original disclosure of the recited limitations:</b>
“transmitting from said cooperative network site a consumer personal page including incentive data for manufacturer offers available at said retailer to said consumer via said retailer network site,	FIG. 1 #12, #14, #16, #22; FIG. 3; page 8 lines 18-19; page 9 lines 3-11; page 11 lines 8-17; and page 13 lines 6-19.
in response to a query from said consumer made over said communication network from said retailer network site;	FIG. 1 #12, #14; page 8 lines 24-25; page 9 lines 3-7 and page 11 lines 8-10.

transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and	FIG. 1 #12, #14; and page 9 lines 12-13.
transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer networks site”	FIG. 1 #12, #14 ; FIG. 3 #64, #66, #68; page 4 lines 1-2; page 10 line 3; page 9 lines 13-14.

#### 4. Fourth Assertion

<b>Office Action at page 3 line 19 to page 4 line 6 alleges no original disclosure of:</b>	<b>Original disclosure of the recited limitations:</b>
“transmitting from said cooperative network site incentive data for manufacturer offers available at said retailer including incentive data for manufacturer offers available at said retailer to said consumer via said retailer network site,	FIG. 1 #12, #14, #16; FIG. 3; page 8 lines 18-19; page 9 lines 12-13; page 12 lines 6-20; page 13 lines 20-24; and page 14 lines 1-16.
in response to a query from said consumer made over said communication network from said retailer network site;	FIG. 1 #12, #14; FIG. 3 #50, #54; page 3 lines 27-29; and page 9 lines 7-13.
transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and	FIG. 1, #12, #14; FIG. 3 #62 ; page 9 lines 11-13; and page 10 lines 11-12.
transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer networks site”	FIG. 1 #12, #14; FIG. 3, #66, #68; page 4 lines 1-2; page 9 lines 12-14; and page 10 lines 13-16.

## 5. Fifth Assertion

<b>Office Action at page 4 line 6-9 alleges no original disclosure of:</b>	<b>Original disclosure of the recited limitations:</b>
“transmitting from said cooperative network site	Page 8 lines 22-24; page 9 lines 26-27; FIG. 1 #10, #14; and FIG2 #32, #38, #46.
said geographically limited list of retailers	Page 8 lines 25-26; page 9 lines 24-26; FIG. 1 #14; and FIG. 2 #38 # 40.
based on a postal code provided by said consumer	Page 9 lines 20-24; and FIG. 2 #32, #34, #36.
to said cooperative network site	Page 9 lines 24-26; and FIG. 2 #34, #36.
via said manufacturer network site”	Page 9 lines 26-27; and FIG. 1 #10; and FIG. 2 #10, #34.

## 6. Sixth Assertion

<b>Office Action at page 4 lines 9-17 alleges no original disclosure of:</b>	<b>Original disclosure of the recited limitations:</b>
“transmitting from said cooperative network site incentive data for manufacturer offers available at said retailer to said consumer via said retailer network site,	FIG. 1 #12, #14, #16; FIG. 3; page 8 lines 18-19; and page 9 lines 3-14.
in response to a query from said consumer made over said communication network from said retailer network site;	FIG. 1 #12; FIG. 3 # 58, #66; page 10 lines 5-7 and page 9 lines 3-7.
transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and	FIG. 1 #12; FIG. 3 #62; page 9 lines 12-13; and page 10 lines 12-13 .
transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer networks site”	FIG. 1 #12, #14; FIG. 3 #66, #68; page 9 lines 12-14; page 10 lines 13-16; and page 13 lines 28-30.

7. Seventh Assertion

Office Action at page 4 lines 17 to page 5 line 4 alleges no original disclosure of:	Original disclosure of the recited limitations:
“transmitting from said cooperative network site a consumer personal page including incentive data for manufacturer offers available at said retailer to said consumer via said retailer network site,	FIG. 1 #14, #16, #22; FIG. 3; page 8 lines 18-19; page 9 lines 3-11; page 11 lines 8-17; and page 13 lines 6-19.
in response to a query from said consumer made over said communication network from said retailer network site;	FIG. 1 #12; page 10 lines 5-9; and page 9 lines 3-7.
transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and	FIG. 1, #12; FIG. 3 #62; page 9 lines 12-13; and page 10 lines 11-2.
transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer networks site”	FIG. 1 #14; page 9 lines 12-14; and page 10 lines 13-16.

8. Eighth Assertion

Office Action at page 5 lines 4-12 alleges no original disclosure of:	Original disclosure of the recited limitations:
“transmitting from said cooperative network site incentive data for manufacturer offers available at said retailer including incentive data for manufacturer offers available at said retailer to said consumer via said retailer network site,	FIG. 1 #12, #14, #16; FIG. 3; FIG. 7 #120, #122; page 4 lines 25-27; page 5 lines 13-16; page 8 lines 18-19; page 9 lines 12-13; page 10 lines 11-16; and page 13 lines 20-24.
in response to a query from said consumer made over said communication network from said retailer network site;	FIG. 1 #12; FIG. 3 #50; page 3 lines 27-29; page 9 lines 7-13; page 10 lines 6-8; and page 13 lines 25-30.

transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and	FIG. 1 #12; FIG. 3 #62; page 9 lines 12-13; and page 10 lines 12-13.
transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer networks site”	FIG. 1 #14; FIG. 3 #66; page 9 lines 13-14; page 9 lines 12-14; and page 13 lines 18-19.

#### 9. Ninth Assertion

<b>Office Action at page 5 lines 13-16 alleges no original disclosure of:</b>	<b>Original disclosure of the recited limitations:</b>
“transmitting from said cooperative network site	Page 8 lines 22-24; page 9 lines 26-27; and FIG. 1 #14; FIG. 2 #14.
said geographically limited list of retailers	Page 9 lines 24-26; FIG. 1 #10; and FIG. 2 #36.
based on a postal code provided by said consumer	Page 9 lines 20-24; and FIG. 2 #32, #34, #36.
to said cooperative network site	Page 9 lines 24-26; FIG. 1 #14; and FIG. 2 #14, #34, #36.
via said manufacturer network site”	Page 9 lines 26-27; FIG. 1 #10; FIG. 1 #10; and FIG. 2 #34.

10. Tenth Assertion

<b>Office Action at page 5 line 17 to page 6 line 3 alleges no original disclosure of:</b>	<b>Original disclosure of the recited limitations:</b>
“transmitting from said cooperative network site incentive data for manufacturer offers available at said retailer to said consumer via said retailer network site,	FIG. 1 #12, #14, #16; and page 8 lines 18-19; page 10 lines 11-16; and page 9 lines 3-14.
in response to a query from said consumer made over said communication network from said retailer network site;	Page 3 lines 27-29; page 10 lines 6-12; FIG. 1 #12; FIG. 3 #50, #54, #62; and page 9 lines 3-7.
transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and	FIG. 1 #12; FIG. 3 #62; page 9 lines 12-13; page 10 lines 11-12; and page 13 lines 25-29.
transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer networks site”	FIG. 1 #14; FIG. 3 #66; page 4, lines 1-2; page 10 lines 15-16; page 9 lines 12-14; and page 13 lines 18-19.

11. Eleventh Assertion

<b>Office Action at page 6 lines 3-12 alleges no original disclosure of:</b>	<b>Original disclosure of the recited limitations:</b>
“transmitting from said cooperative network site a consumer personal page including incentive data for manufacturer offers available at said retailer to said consumer via said retailer network site,	FIG. 1 #14, #16, 22; FIG. 3; page 9 lines 3-11; page 11 lines 8-17; and page 13 lines 6-19.
in response to a query from said consumer made over said communication network from said retailer network site;	FIG. 1 #12; FIG. 3 #50, #54, #62; page 10 lines 5-16; page 13 lines 8-12; and page 9 lines 11-14.

transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and	FIG. 1 #12; FIG. 3 #62; page 9 lines 11-13; page 10 lines 12-13.
transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer networks site”	FIG. 1 #14; FIG. 3 #66; page 4 lines 1-2; page 10 lines 15-16; page 9 lines 12-14; and page 13 lines 18-19.

## 12. Twelfth Assertion

<b>Office Action at page 6 lines 12-21 alleges no original disclosure of:</b>	<b>Original disclosure of the recited limitations:</b>
“transmitting from said cooperative network site incentive data for manufacturer offers available at said retailer including incentive data for manufacturer offers available at said retailer to said consumer via said retailer network site,	FIG. 1 #14; FIG. 1 #16; FIG. 3; FIG. 7 #120, #122, #134; page 8 lines 18-19; page 9 lines 12-13; page 12 lines 6-20; page 13 lines 20-24; and page 14 lines 1-14.
in response to a query from said consumer made over said communication network from said retailer network site;	FIG. 1 #12; FIG. 3 #54, #56, #58; page 9 lines 7-13; page 10 lines 5-11; and page 13 lines 25-30.
transmitting by said consumer incentive selection data selected from said incentive data to said cooperative network site via said retailer network site; and	FIG. 1 #12; FIG. 3 #62; page 9 lines 12-13; and page 10 lines 12-13.
transmitting from said cooperative network site incentives corresponding to said selection data to said consumer via said retailer networks site”	FIG. 1 #14; FIG. 3 #66; page 4 lines 1-2; page 10 lines 15-16; page 9 lines 11-14; and page 13 lines 18-19.

#### IV. Petition to the Commissioner

The applicant has a right of appeal to obtain finality respecting the claimed invention. CF Ex parte Lemoine, 46 USPQ2d 1420, \_\_\_ (PTOBPAI 1994) (precedential decision of an expanded panel including APJ Schafer, APJ Meister, SAPJ McKelvey, and CAPJ Stoner). The examiner has *withdrawn* the appeal three times. 37 CFR 1.192(b)(1) does not specifically authorize the examiner the *withdraw* an appeal more than once, and it does not authorize the examiner to withdraw in response to a supplemental appeal brief filed pursuant to 37 CFR 1.192((b)(2)(ii)). The examiner has now twice withdrawn the appeal in response to a supplemental appeal brief thereby unfairly delaying resolution of patentability issues.

If the examiner attempts to again withdraw the appeal, the undersigned will petition to have any such office action expunged and the file immediately transferred to the Board for decision on the appeal.

12/23/02

Date



31518

Richard A. Neifeld, Ph.D.  
Registration No. 35,299  
Attorney of Record  
Robert G. Crockett  
Registration No. 42,448

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